

OCT. 5. 2006 4:04PM

FOLEY 8587926773

NO. 5954 P. 1



FOLEY & LARDNER LLP

ATTORNEYS AT LAW  
11250 EL CAMINO REAL, SUITE 200  
SAN DIEGO, CA 92130  
P.O. BOX 80278  
SAN DIEGO, CA 92138-0278  
TELEPHONE: 858.847.6700  
FACSIMILE: 858.792.6773  
WWW.FOLEY.COM

RECEIVED  
CENTRAL FAX CENTER

OCT 05 2006

## FACSIMILE TRANSMISSION

ORIGINAL WILL NOT BE SENT

Total # of Pages 7 (including this page)

TO:	PHONE #:	FAX #:
United States Patent and Trademark Office Mail Stop Amendment Examiner: Unsu Jung Art Unit: 1641		571-273-8300

From : Barry S. Wilson  
Email Address : bwilson@foley.com  
Sender's Direct Dial : 858.847.6722  
Date : October 5, 2006  
Client/Matter No : 071949-5604  
User ID No : 3067

U.S. Application No.: 10/728,067  
Docket No.: 071949-5604

### MESSAGE:

Please find enclosed:

Transmittal (3 pages);

Response to Restriction Requirement and Interview Summary (3 pages).

If there are any problems with this transmission or if you have not received all of the pages, please call 858-847-6700.

Operator:	Time Sent:	Return Original To: Vanessa E. Agha
-----------	------------	--

CONFIDENTIALITY NOTICE: THE INFORMATION CONTAINED IN THIS FACSIMILE MESSAGE IS INTENDED ONLY FOR THE PERSONAL AND CONFIDENTIAL USE OF THE DESIGNATED RECIPIENTS NAMED ABOVE. THIS MESSAGE MAY BE AN ATTORNEY-CLIENT COMMUNICATION, AND AS SUCH IS PRIVILEGED AND CONFIDENTIAL. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT OR ANY AGENT RESPONSIBLE FOR DELIVERING IT TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT YOU HAVE RECEIVED THIS DOCUMENT IN ERROR, AND THAT ANY REVIEW, DISSEMINATION, DISTRIBUTION OR COPYING OF THIS MESSAGE IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE AND RETURN THE ORIGINAL MESSAGE TO US BY MAIL. THANK YOU.

Cover Page 1 of 1

DLMR\_283108.1

PAGE 1/7 \* RCVD AT 10/5/2006 7:09:16 PM [Eastern Daylight Time] \* SVR:USPTO-EFAX-3/19 \* DNIS:2738300 \* CSID: \* DURATION (mm-ss):02:10

OCT. 5. 2006 4:04PM

FOLEY 8587926773

RECEIVED  
CENTRAL FAX CENTER

NO. 5954 P. 2

OCT 05 2006

Atty. Dkt. No. 071949-5604

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: Buechler et al.

Title: USE OF THROMBUS  
PRECURSOR PROTEIN AND  
MONOCYTE  
CHEMOATTRACTANT  
PROTEIN AS DIAGNOSTIC AND  
PROGNOSTIC INDICATORS IN  
VASCULAR DISEASES

<b>CERTIFICATE OF FACSIMILE TRANSMISSION</b> I hereby certify that this paper is being facsimile transmitted to the United States Patent and Trademark Office, Alexandria, Virginia on the date below.  Vanessa E. Agha (Printed Name)  <i>Vanessa E. Agha</i> (Signature)  October 5, 2006 (Date of Deposit)
---

Appl. No.: 10/728,067

Filing Date: 12/03/2003

Examiner: Unsu Jung

Art Unit: 1641

**AMENDMENT TRANSMITTAL**Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Transmitted herewith is an amendment in the above-identified application.

☒ [ X ] Response to Restriction Requirement and Interview Summary (3 pages).☒ [ X ] The fee required for additional claims is calculated below:

	Claims As Amended		Previously Paid For		Extra Claims Present		Rate		Additional Claims Fee
Total Claims:	13	-	44	=	0	x	\$50.00	=	\$0.00
Independent Claims:	1	-	2	=	0	x	\$200.00	=	\$0.00

DLMR\_288422.1

-1-

OCT 05 2006

Atty. Dkt. No. 071949-5604

---

 First presentation of any Multiple Dependent Claims: + \$360.00 = \$0.00

---

 CLAIMS FEE TOTAL = \$0.00
 

---

- ☐ Applicant hereby petitions for an extension of time under 37 C.F.R. §1.136(a) for the total number of months checked below:

<input type="checkbox"/> Extension for response filed within the first month:	\$120.00	\$0.00
<input type="checkbox"/> Extension for response filed within the second month:	\$450.00	\$0.00
<input type="checkbox"/> Extension for response filed within the third month:	\$1,020.00	\$0.00
<input type="checkbox"/> Extension for response filed within the fourth month:	\$1,590.00	\$0.00
<input type="checkbox"/> Extension for response filed within the fifth month:	\$2,160.00	\$0.00
EXTENSION FEE TOTAL:		\$0.00
<input type="checkbox"/> Statutory Disclaimer Fee under 37 C.F.R. 1.20(d):	\$130.00	\$0.00
CLAIMS, EXTENSION AND DISCLAIMER FEE TOTAL:		\$0.00
<input type="checkbox"/> Small Entity Fees Apply (subtract ½ of above):		\$0.00
TOTAL FEE:		\$0.00

---

- ☒ The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 50-0872. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 50-0872. If any extensions of time are needed for timely acceptance of papers submitted herewith, applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 50-0872.

Atty. Dkt. No. 071949-5604

Please direct all correspondence to the undersigned attorney or agent at the address indicated below.

Respectfully submitted,

Date 10/05/2006

By Barry Wilson

FOLEY & LARDNER LLP  
Customer Number: 30542  
Telephone: (858) 847-6722  
Facsimile: (858) 792-6773

Richard Warburg, Reg. No. 32,327  
By Barry S. Wilson, Reg. No. 39,431  
Attorney for Applicant

RECEIVED  
CENTRAL FAX CENTER

OCT 05 2006 Atty. Dkt. No. 071949-5604

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: Buechler et al.

Title: USE OF THROMBUS  
PRECURSOR PROTEIN AND  
MONOCYTE  
CHEMOATTRACTANT  
PROTEIN AS DIAGNOSTIC AND  
PROGNOSTIC INDICATORS IN  
VASCULAR DISEASES

<b>CERTIFICATE OF FACSIMILE TRANSMISSION</b> I hereby certify that this paper is being facsimile transmitted to the United States Patent and Trademark Office, Alexandria, Virginia on the date below.  Vanessa E. Agha (Printed Name)  Vanessa E. Agha (Signature)  October 5 2006 (Date of Deposit)
---

Appl. No.: 10/728,067

Filing Date: 12/03/2003

Examiner: Jung, Unsu

Art Unit: 1641

**RESPONSE TO A RESTRICTION REQUIREMENT  
AND INTERVIEW SUMMARY**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

This communication is responsive to a Restriction Requirement mailed September 11,  
2006.

The Examiner has divided claims 1-44 have into two groups:

Group I: Claims 1-31, drawn to method of predicting a risk of one or more future  
clinical outcomes for a subject suffering from a vascular disease, classified in class 435, subclass  
7.1, for example; and

Atty. Dkt. No. 071949-5604

Group II: Claims 32-44, drawn to a method of diagnosing atherosclerosis in a subject, classified in class 435, subclass 13, for example.

Applicants hereby elect Group II, claims 32-44 for examination.

Regarding the species election for Group II, Applicants hereby elect as follows:

List I (Risk Factors): elect **"sex"**

List II (Subject-Derived Markers) elect **"markers related to myocardial injury markers."**

The elected species read on claims 32-44.

The undersigned called the Examiner on October 5, 2006 to discuss the Group II species election on page 8 of the Restriction Requirement. It was agreed that item "a" (monocyte chemoattractant protein-1) was to be deleted from List II "Subject-Derived Markers" because this item is a requirement of all the Group II claims. Thus, the Examiner agreed that Applicants are required to choose a single species from items b to g under the List II "Subject-Derived Markers."

No fee is believed due with this filing, however, the Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16 1.17, or credit any overpayment, to Deposit Account No. 50-0872. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 50-0872.

OCT. 5. 2006 4:05PM

FOLEY 8587926773

RECEIVED  
CENTRAL FAX CENTER

NO. 5954 P. 7

OCT 05 2006

Atty. Dkt. No. 071949-5604

If any extensions of time are needed for timely acceptance of papers submitted herewith,  
Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of  
any such extensions fees to Deposit Account No. 50-0872.

Respectfully submitted,

Date October 5, 2006

By Barry Wilson

FOLEY & LARDNER LLP

Customer Number: 30542

Telephone: (858) 847-6722

Facsimile: (858) 792-6773

Richard Warburg, Reg. No. 32,327

By Barry S. Wilson, Reg. No. 39,431

Attorney for Applicant